
HOUSE BILL No. 1511

DIGEST OF INTRODUCED BILL

Citations Affected: IC 20-20-35; IC 20-26-5-4; IC 20-26-7.5.

Synopsis: School construction standards. Requires the department of education to develop and make available to school corporations standardized plans for new school facilities that are ready to be bid for construction. Requires a school corporation proposing to build a new facility to determine whether a standardized plan meets the needs of the school corporation and, if it determines a nonstandardized facility is necessary, to give notice of the determination and, upon petition by registered voters, submit the question of the facility's construction to a referendum.

Effective: July 1, 2007.

Whetstone

January 23, 2007, read first time and referred to Committee on Education.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE BILL No. 1511

A BILL FOR AN ACT to amend the Indiana Code concerning education.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 20-20-35 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2007]:
4 **Chapter 35. School Building Plans**
5 **Sec. 1. The department shall develop a series of standardized**
6 **plans for new school facilities. The plans must be for school**
7 **facilities of different:**
8 (1) sizes based upon pupil enrollment; and
9 (2) types, including grade levels.
10 **Sec. 2. The plans developed under this chapter must be based on**
11 **designs for school facilities that:**
12 (1) are economical to construct and maintain;
13 (2) are energy efficient;
14 (3) provide for efficient long term maintenance;
15 (4) provide adequately for the health and safety of pupils and
16 teachers; and
17 (5) comply with federal and state laws.



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1 **Sec. 3. The department may employ or contract with architects,**
 2 **engineers, and other professionals to develop plans under this**
 3 **chapter.**

4 **Sec. 4. The department may modify plans developed under this**
 5 **chapter when necessary.**

6 **Sec. 5. Before a plan developed under this chapter may be**
 7 **provided to a school corporation, the plan must:**

- 8 (1) **include specifications for materials and labor; and**
 9 (2) **be ready to be bid for construction.**

10 **Sec. 6. The department shall:**

- 11 (1) **notify each school corporation of the plans developed**
 12 **under this chapter; and**
 13 (2) **make the plans available to a school corporation upon**
 14 **request.**

15 SECTION 2. IC 20-26-5-4, AS AMENDED BY P.L.168-2006,
 16 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2007]: Sec. 4. In carrying out the school purposes of a school
 18 corporation, the governing body acting on the school corporation's
 19 behalf has the following specific powers:

- 20 (1) In the name of the school corporation, to sue and be sued and
 21 to enter into contracts in matters permitted by applicable law.
 22 (2) To take charge of, manage, and conduct the educational affairs of
 23 the school corporation and to establish, locate, and provide the
 24 necessary schools, school libraries, other libraries where
 25 permitted by law, other buildings, facilities, property, and
 26 equipment.
 27 (3) To appropriate from the school corporation's general fund an
 28 amount, not to exceed the greater of three thousand dollars
 29 (\$3,000) per budget year or one dollar (\$1) per pupil, not to
 30 exceed twelve thousand five hundred dollars (\$12,500), based on
 31 the school corporation's previous year's ADM, to promote the best
 32 interests of the school corporation through:
 33 (A) the purchase of meals, decorations, memorabilia, or
 34 awards;
 35 (B) provision for expenses incurred in interviewing job
 36 applicants; or
 37 (C) developing relations with other governmental units.

38 (4) **Subject to IC 20-26-7.5, to:**

- 39 (A) Acquire, construct, erect, maintain, hold, and contract for
 40 construction, erection, or maintenance of real estate, real estate
 41 improvements, or an interest in real estate or real estate
 42 improvements, as the governing body considers necessary for

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school purposes, including buildings, parts of buildings, additions to buildings, rooms, gymnasiums, auditoriums, playgrounds, playing and athletic fields, facilities for physical training, buildings for administrative, office, warehouse, repair activities, or housing school owned buses, landscaping, walks, drives, parking areas, roadways, easements and facilities for power, sewer, water, roadway, access, storm and surface water, drinking water, gas, electricity, other utilities and similar purposes, by purchase, either outright for cash (or under conditional sales or purchase money contracts providing for a retention of a security interest by the seller until payment is made or by notes where the contract, security retention, or note is permitted by applicable law), by exchange, by gift, by devise, by eminent domain, by lease with or without option to purchase, or by lease under IC 20-47-2, IC 20-47-3, or IC 20-47-5.

(B) Repair, remodel, remove, or demolish, or to contract for the repair, remodeling, removal, or demolition of the real estate, real estate improvements, or interest in the real estate or real estate improvements, as the governing body considers necessary for school purposes.

(C) Provide for conservation measures through utility efficiency programs or under a guaranteed savings contract as described in IC 36-1-12.5.

(5) To acquire personal property or an interest in personal property as the governing body considers necessary for school purposes, including buses, motor vehicles, equipment, apparatus, appliances, books, furniture, and supplies, either by cash purchase or under conditional sales or purchase money contracts providing for a security interest by the seller until payment is made or by notes where the contract, security, retention, or note is permitted by applicable law, by gift, by devise, by loan, or by lease with or without option to purchase and to repair, remodel, remove, relocate, and demolish the personal property. All purchases and contracts specified under the powers authorized under subdivision (4) and this subdivision are subject solely to applicable law relating to purchases and contracting by municipal corporations in general and to the supervisory control of state agencies as provided in section 6 of this chapter.

(6) To sell or exchange real or personal property or interest in real or personal property that, in the opinion of the governing body, is not necessary for school purposes, in accordance with IC 20-26-7,

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to demolish or otherwise dispose of the property if, in the opinion of the governing body, the property is not necessary for school purposes and is worthless, and to pay the expenses for the demolition or disposition.

(7) To lease any school property for a rental that the governing body considers reasonable or to permit the free use of school property for:

(A) civic or public purposes; or

(B) the operation of a school age child care program for children who are at least five (5) years of age and less than fifteen (15) years of age that operates before or after the school day, or both, and during periods when school is not in session; if the property is not needed for school purposes. Under this subdivision, the governing body may enter into a long term lease with a nonprofit corporation, community service organization, or other governmental entity, if the corporation, organization, or other governmental entity will use the property to be leased for civic or public purposes or for a school age child care program. However, if payment for the property subject to a long term lease is made from money in the school corporation's debt service fund, all proceeds from the long term lease must be deposited in the school corporation's debt service fund so long as payment for the property has not been made. The governing body may, at the governing body's option, use the procedure specified in IC 36-1-11-10 in leasing property under this subdivision.

(8) To:

(A) Employ, contract for, and discharge superintendents, supervisors, principals, teachers, librarians, athletic coaches (whether or not they are otherwise employed by the school corporation and whether or not they are licensed under IC 20-28-5), business managers, superintendents of buildings and grounds, janitors, engineers, architects, physicians, dentists, nurses, accountants, teacher aides performing noninstructional duties, educational and other professional consultants, data processing and computer service for school purposes, including the making of schedules, the keeping and analyzing of grades and other student data, the keeping and preparing of warrants, payroll, and similar data where approved by the state board of accounts as provided below, and other personnel or services as the governing body considers necessary for school purposes.

(B) Fix and pay the salaries and compensation of persons and

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- 1 services described in this subdivision.
- 2 (C) Classify persons or services described in this subdivision
- 3 and to adopt schedules of salaries or compensation.
- 4 (D) Determine the number of the persons or the amount of the
- 5 services employed or contracted for as provided in this
- 6 subdivision.
- 7 (E) Determine the nature and extent of the duties of the
- 8 persons described in this subdivision.
- 9 The compensation, terms of employment, and discharge of
- 10 teachers are, however, subject to and governed by the laws
- 11 relating to employment, contracting, compensation, and discharge
- 12 of teachers. The compensation, terms of employment, and
- 13 discharge of bus drivers are subject to and governed by laws
- 14 relating to employment, contracting, compensation, and discharge
- 15 of bus drivers. The forms and procedures relating to the use of
- 16 computer and data processing equipment in handling the financial
- 17 affairs of the school corporation must be submitted to the state
- 18 board of accounts for approval so that the services are used by the
- 19 school corporation when the governing body determines that it is
- 20 in the best interest of the school corporation while at the same
- 21 time providing reasonable accountability for the funds expended.
- 22 (9) Notwithstanding the appropriation limitation in subdivision
- 23 (3), when the governing body by resolution considers a trip by an
- 24 employee of the school corporation or by a member of the
- 25 governing body to be in the interest of the school corporation,
- 26 including attending meetings, conferences, or examining
- 27 equipment, buildings, and installation in other areas, to permit the
- 28 employee to be absent in connection with the trip without any loss
- 29 in pay and to reimburse the employee or the member the
- 30 employee's or member's reasonable lodging and meal expenses
- 31 and necessary transportation expenses. To pay teaching personnel
- 32 for time spent in sponsoring and working with school related trips
- 33 or activities.
- 34 (10) To transport children to and from school, when in the
- 35 opinion of the governing body the transportation is necessary,
- 36 including considerations for the safety of the children and without
- 37 regard to the distance the children live from the school. The
- 38 transportation must be otherwise in accordance with applicable
- 39 law.
- 40 (11) To provide a lunch program for a part or all of the students
- 41 attending the schools of the school corporation, including the
- 42 establishment of kitchens, kitchen facilities, kitchen equipment,

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lunch rooms, the hiring of the necessary personnel to operate the lunch program, and the purchase of material and supplies for the lunch program, charging students for the operational costs of the lunch program, fixing the price per meal or per food item. To operate the lunch program as an extracurricular activity, subject to the supervision of the governing body. To participate in a surplus commodity or lunch aid program.

(12) To purchase textbooks, to furnish textbooks without cost or to rent textbooks to students, to participate in a textbook aid program, all in accordance with applicable law.

(13) To accept students transferred from other school corporations and to transfer students to other school corporations in accordance with applicable law.

(14) To make budgets, to appropriate funds, and to disburse the money of the school corporation in accordance with applicable law. To borrow money against current tax collections and otherwise to borrow money, in accordance with IC 20-48-1.

(15) To purchase insurance or to establish and maintain a program of self-insurance relating to the liability of the school corporation or the school corporation's employees in connection with motor vehicles or property and for additional coverage to the extent permitted and in accordance with IC 34-13-3-20. To purchase additional insurance or to establish and maintain a program of self-insurance protecting the school corporation and members of the governing body, employees, contractors, or agents of the school corporation from liability, risk, accident, or loss related to school property, school contract, school or school related activity, including the purchase of insurance or the establishment and maintenance of a self-insurance program protecting persons described in this subdivision against false imprisonment, false arrest, libel, or slander for acts committed in the course of the persons' employment, protecting the school corporation for fire and extended coverage and other casualty risks to the extent of replacement cost, loss of use, and other insurable risks relating to property owned, leased, or held by the school corporation. To:

(A) participate in a state employee health plan under IC 5-10-8-6.6;

(B) purchase insurance; or

(C) establish and maintain a program of self-insurance;

to benefit school corporation employees, including accident, sickness, health, or dental coverage, provided that a plan of

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self-insurance must include an aggregate stop-loss provision.

(16) To make all applications, to enter into all contracts, and to sign all documents necessary for the receipt of aid, money, or property from the state, the federal government, or from any other source.

(17) To defend a member of the governing body or any employee of the school corporation in any suit arising out of the performance of the member's or employee's duties for or employment with, the school corporation, if the governing body by resolution determined that the action was taken in good faith.

To save any member or employee harmless from any liability, cost, or damage in connection with the performance, including the payment of legal fees, except where the liability, cost, or damage is predicated on or arises out of the bad faith of the member or employee, or is a claim or judgment based on the member's or employee's malfeasance in office or employment.

(18) To prepare, make, enforce, amend, or repeal rules, regulations, and procedures:

(A) for the government and management of the schools, property, facilities, and activities of the school corporation, the school corporation's agents, employees, and pupils and for the operation of the governing body; and

(B) that may be designated by an appropriate title such as "policy handbook", "bylaws", or "rules and regulations".

(19) To ratify and approve any action taken by a member of the governing body, an officer of the governing body, or an employee of the school corporation after the action is taken, if the action could have been approved in advance, and in connection with the action to pay the expense or compensation permitted under IC 20-26-1 through IC 20-26-5, IC 20-26-7, IC 20-40-12, and IC 20-48-1 or any other law.

(20) To exercise any other power and make any expenditure in carrying out the governing body's general powers and purposes provided in this chapter or in carrying out the powers delineated in this section which is reasonable from a business or educational standpoint in carrying out school purposes of the school corporation, including the acquisition of property or the employment or contracting for services, even though the power or expenditure is not specifically set out in this chapter. The specific powers set out in this section do not limit the general grant of powers provided in this chapter except where a limitation is set out in IC 20-26-1 through IC 20-26-5, IC 20-26-7, **IC 20-26-7.5**,

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IC 20-40-12, and IC 20-48-1 by specific language or by reference to other law.

SECTION 3. IC 20-26-7.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 7.5. School Building Construction

Sec. 1. After June 30, 2008, if a governing body determines that it is necessary to construct a new school facility, the governing body shall acquire from the department the plans developed under IC 20-20-35 for a facility of the size and type that the governing body proposes to build.

Sec. 2. After examining the plans acquired under section 1 of this chapter, the governing body shall make one (1) of the following determinations:

(1) The plans are adequate to meet the needs of the school corporation and will be followed in the construction of the new facility.

(2) The plans are not adequate to meet the needs of the school corporation, and new plans must be developed.

Sec. 3. If the governing body makes a determination under section 2(1) of this chapter, the governing body may proceed with the construction of the facility in the manner provided by law.

Sec. 4. If the governing body makes a determination under section 2(2) of this chapter, the governing body must give notice of the following under IC 5-3-1:

(1) That a determination under section 2(2) of this chapter has been made.

(2) That the construction of a new school facility not based upon plans developed under IC 20-20-35 is proposed. The notice must include a description of the proposed facility and the governing body's estimate of the cost of construction. The governing body is not required to base an estimate under this subdivision upon an architect's bid ready plans.

(3) That the question of whether the facility should be constructed may be submitted to a referendum. The notice must summarize the petition and referendum procedure set forth in this chapter.

Sec. 5. (a) The registered voters of a school corporation to which section 4 of this chapter applies may file a petition addressed to the governing body requesting that the question of the construction of the proposed school facility be submitted to a referendum.

(b) If a petition filed under this section is:

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(1) signed by at least ten percent (10%) of the registered voters of the school corporation; and

(2) filed with the governing body not later than ninety (90) days after notice is given under section 4 of this chapter;

the question of the construction of the proposed school facility shall be submitted to a referendum under this chapter.

Sec. 6. Not later than thirty (30) days after a petition that complies with section 5(b) of this chapter is filed, the governing body shall certify to the county election board that the petition has been filed.

Sec. 7. IC 3 governs a referendum held under this chapter.

Sec. 8. Following certification, the county election board shall submit the question of the proposed construction to a referendum at the next election. The question shall be submitted to the registered voters of the school corporation by placement on the ballot in the form prescribed by IC 3-10-9-4 and must state:

"Shall the _____ school corporation construct a _____ (insert a description of the facility here) facility at an estimated cost of _____ (insert the estimated cost here)?"

Sec. 9. After a referendum under this chapter, the governing body may proceed with the construction of the facility only if a majority of the voters voting on the question vote in favor of the construction of the facility.

SECTION 4. [EFFECTIVE JULY 1, 2007] (a) The department of education shall develop the school facility plans required under IC 20-20-35, as added by this act, not later than June 30, 2008.

(b) This SECTION expires July 1, 2008.

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